

1 NORMAN L. SMITH [SBN 106344]
nsmith@swsslaw.com
2 ELIZABETH A. MITCHELL [SBN 204853]
emitchell@swsslaw.com
3 SOLOMON WARD SEIDENWURM & SMITH, LLP
401 B Street, Suite 1200
4 San Diego, California 92101
Telephone: (619) 231-0303
5 Facsimile: (619) 231-4755

6 Attorneys for Defendant and Counter-Claimant
KONTRON AMERICA, INC.
7

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 EXCEPTIONAL INNOVATION, LLC,
11 Plaintiff,
12

13 vs.

14 KONTRON AMERICA, INC.,
15 Defendant.

16 KONTRON AMERICA, INC.,
17 Counter-Claimant,

18 v.

19 EXCEPTIONAL INNOVATION, LLC,
20 Counter-Defendant.
21
22
23
24
25
26
27
28

CASE NO. 07CV2041 LAB(LSP)

**EX PARTE APPLICATION FOR APPROVAL
OF SUBSTITUTION OF ATTORNEYS OF
KONTRON AMERICA, INC.**

Honorable Larry Alan Burns
Ctrm: 9
Action Filed: June 27, 2007

1 On October 17, 2007, this case was transferred to this District from the United States
2 District Court for the Southern District of Ohio. Defendant and Counter-Claimant Kontron
3 America, Inc. hereby requests that the Court approve the substitution of the law firm of
4 Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Suite 1200, San Diego, California
5 92101, telephone no. (619) 231-0303, facsimile no. (619) 231-4755 as its counsel of record
6 in this matter in the place and stead of Squire, Sanders & Dempsey, LLP.

7 DATED: November 19, 2007

KONTRON AMERICA, INC.

8
9 By: 

JACK WALKER

Manager, Programs and Contracts

11 I hereby consent to the above substitution.

12 DATED: November __, 2007

SQUIRE, SANDERS & DEMPSEY, LLP

14 By: _____

JESSICA D. GOLDMAN

PHILOMENA M. DANE

16 Previous Attorneys for Defendant and Counter-
Claimant KONTRON AMERICA, INC.

17 I accept the above substitution.

18 DATED: November __, 2007

SOLOMON WARD SEIDENWURM & SMITH, LLP

20 By: _____

NORMAN L. SMITH

ELIZABETH A. MITCHELL

22 New Counsel of Record for Defendant and
Counter-Claimant KONTRON AMERICA, INC.


1 On October 17, 2007, this case was transferred to this District from the
2 United States District Court for the Southern District of Ohio. Defendant and
3 Counter-Claimant Kontron America, Inc. hereby requests that the Court approve
4 the substitution of the law firm of Solomon Ward Seidenwurm & Smith, LLP, 401 B
5 Street, Suite 1200, San Diego, California 92101, telephone no. (619) 231-0303,
6 facsimile no. (619) 231-4755 as its counsel of record in this matter in the place and
7 stead of Squire, Sanders & Dempsey, LLP.

8 DATED: November __, 2007 KONTROK AMERICA, INC.

9
10 By: _____
11 JACK WALKER
12 Manager, Programs and Contracts

13 I hereby consent to the above substitution.

14 DATED: November 20, 2007 SQUIRE, SANDERS & DEMPSEY, LLP

15 By:  _____
16 JESSICA D. GOLDMAN
17 PHILOMENA M. DANE
18 Previous Attorneys for Defendant and
Counter-Claimant KONTROK AMERICA,
INC.

19 I accept the above substitution.

20 DATED: November __, 2007 SOLOMON WARD SEIDENWURM & SMITH, LLP

21 By: _____
22 NORMAN L. SMITH
23 ELIZABETH A. MITCHELL
24 New Counsel of Record for Defendant
25 and Counter-Claimant KONTROK
26 AMERICA, INC.
27
28

1 On October 17, 2007, this case was transferred to this District from the United States
2 District Court for the Southern District of Ohio. Defendant and Counter-Claimant Kontron
3 America, Inc. hereby requests that the Court approve the substitution of the law firm of
4 Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Suite 1200, San Diego, California
5 92101, telephone no. (619) 231-0303, facsimile no. (619) 231-4755 as its counsel of record
6 in this matter in the place and stead of Squire, Sanders & Dempsey, LLP.

7 DATED: November __, 2007 KONTRON AMERICA, INC.

8
9 By: _____
10 JACK WALKER
11 Manager, Programs and Contracts


12 I hereby consent to the above substitution.

13 DATED: November __, 2007 SQUIRE, SANDERS & DEMPSEY, LLP

14 By: _____
15 JESSICA D. GOLDMAN
16 PHILOMENA M. DANE
17 Previous Attorneys for Defendant and Counter-
18 Claimant KONTRON AMERICA, INC.

19 I accept the above substitution.

20 DATED: November 19, 2007 SOLOMON WARD SEIDENWURM & SMITH, LLP

21 By: 
22 NORMAN L. SMITH
23 ELIZABETH A. MITCHELL
24 New Counsel of Record for Defendant and
25 Counter-Claimant KONTRON AMERICA, INC.
26
27
28

PROOF OF SERVICE

I, the undersigned, declare:

I am employed in the County of San Diego, State of California. I am over the age of 18 years and not a party to this action. My business address is Solomon Ward Seidenwurm & Smith, LLP, 401 B Street, Suite 1200, San Diego, California 92101.

On November 20, 2007, I served a copy, including all exhibits, if any, of the following document(s):

**EX PARTE APPLICATION FOR APPROVAL OF SUBSTITUTION OF ATTORNEYS
OF KONTRON AMERICA, INC.**

on the parties in this action listed in the attached Proof of Service List, which is incorporated herein by this reference, by the following means:

☒ **(BY MAIL)** I caused each such envelope to be sealed and placed for collection and mailing from my business address. I am readily familiar with the practice of Solomon Ward Seidenwurm & Smith, LLP for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business mail is deposited with the postage thereon fully prepaid in the United States Postal Service the same day as it is placed for collection. I am aware that upon motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after the date of deposit for mailing contained in this affidavit.

☐ **(BY PERSONAL SERVICE)** I caused each such envelope to be sealed and given to a courier authorized by our attorney service to receive documents for delivery on the same date. A proof of service signed by the authorized courier will be filed forthwith.

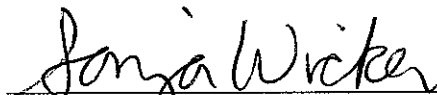
☐ **(BY FEDERAL EXPRESS)** I am readily familiar with the practice of Solomon Ward Seidenwurm & Smith, LLP for the collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by Federal Express for overnight delivery.

☒ **(BY FACSIMILE)** This document was transmitted by facsimile transmission from (619) 231-4755 and the transmission was reported as complete and without error. I then caused the transmitting facsimile machine to properly issue a transmission report, a copy of which is attached to this affidavit.

☐ **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☒ **(FEDERAL)** I declare that I am employed in the office of a member of this bar of this court, at whose direction this service was made.

Executed on November 20, 2007, at San Diego, California.


Sonja Wicker

PROOF OF SERVICE LIST

Nelson M. Reid
Sommer L. Sheely
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
Tel: 614-227-2300
Fax: 614-227-2390
nreid@bricker.com

Philomena M. Dane
SQUIRE, SANDERS & DEMPSEY, LLP
1300 Huntington Center
41 South High Street
Columbus, Ohio 43215
Tel: (614) 365-2700
Fax: (614) 365-2499
pdane@ssd.com

Attorneys for Plaintiff EXCEPTIONAL
INNOVATION, LLC

Ohio Attorneys for Defendant KONTRON
AMERICA, INC.